

State Notes

TOPICS OF LEGISLATIVE INTEREST

July/August 2007



Permanency Options for Children in Foster Care **By Curtis Walker, Legislative Analyst**

Introduction

There are about 19,000 children in foster care in Michigan. Since the laws governing foster care in the State underwent a major revision in 1997, the Department of Human Services (DHS) has placed a higher emphasis on finding permanent placements for children in the custody of the State as quickly as possible. Despite those efforts, many contend that children in the system are not being served well, that current policies have led to an increase in the number of foster children, and that once in foster care, many children are unlikely to find a permanent placement. In addition, reviews and audits of the foster care system have identified numerous failings and deficiencies. High-profile cases of children who have been abused, neglected, or killed while in foster care have raised further concerns over the program. To address these and other issues, various reforms have been suggested to improve the effectiveness of foster care, reduce the costs of the program, and help youths aging out of the system make the transition to adulthood.

This article offers a review of some of the proposals, along with the permanency options that are available to foster children in the State.

Child Placement

Children are placed into foster care if the court determines that it would be unsafe for them to remain in the home. Children in foster care often have been the victims of abuse or neglect, or have been living with parents who otherwise have been deemed unfit to care for them.

When a child enters foster care, a permanency planning hearing must be held within 12 months to explore placement options for the child. Generally, the most preferable option is reunification with the parent if the issues that caused the removal can be resolved. In some situations, however, it may be determined that reunification is not in the child's best interest, in which case the court may order the termination of parental rights. The child then may be placed with a member of the extended family, or may be made available for adoption.

That process is often slow and difficult, however. A suitable placement might not be available immediately, or the parent may appeal the termination order. A lengthy appeal may extend the amount of time that the child is in foster care. To help expedite the process, several observers have suggested that concurrent planning be made for the child, allowing different options to be explored simultaneously. For instance, potential adoptive parents for a child could be located while the order to terminate parental rights was pending, enabling the adoption to proceed shortly after parental rights were terminated. Alternative options, such as a permanent guardianship arrangement, could be explored at the same time, in case the court failed to terminate parental rights. Senate Bill 671, introduced by Senator Kahn on August 1, 2007, would permit the DHS to engage in concurrent planning for foster children while attempts were being made to reunify the family. The bill was referred to the Senate Committee on Families and Human Services.



Also, children with special needs, including mental or physical health problems, are generally more difficult than others to place. There is a shortage of individuals who are well suited and willing to adopt those children, because of the significant responsibilities and challenges involved. Some increased efforts have been made to recruit adoptive parents for children with special needs, and increased payments of between \$5 and \$15 per day are available for foster care providers caring for children with mental or physical health problems. It has been suggested that additional money should be made available to help those parents cover the cost of medical expenses or other necessary treatments not covered by Medicaid.

Termination of Parental Rights

According to the 2007 Kids Count report by the Annie E. Casey Foundation, about 11 out of every 1,000 children in the State were in foster care at some point during 2004¹, placing Michigan slightly above the national average. However, a disproportionate number of children in Michigan age out of the foster care system without ever having a permanent placement. The Kids Count report found that 667 children aged out of foster care during 2004, compared with the national average of 454. Many critics believe that changes to the foster care laws in 1997 are partly to blame.

In 1997, amid growing concerns over child abuse and neglect, legislation amended the Child Protection Law, juvenile code, Foster Care and Adoption Services Act, and foster care review board Act were revised to provide additional protections for children found to be in unsuitable living environments. Supporters argued that the changes would enable the State to protect children more actively, by allowing the State to remove children from harmful environments and place them into more positive situations.

In the following years, the number of parental rights termination orders increased significantly, from 3,962 in 1997 to 6,248 in 2002, an increase of more than 57.0% over five years, according to the DHS Children Services Administration. (Since 2002, the number of termination orders has remained fairly stable. In 2006, there were 6,292 termination orders.) Some believe that the revised laws have led the courts to terminate parental rights in cases in which other actions might be more appropriate.

The Michigan Foster Care Review Board, among others, has recommended that a child's prospects for adoption be reviewed before parental rights are terminated, decreasing the child's chances of becoming a permanent ward of the State. Even if the living situation with the parent is imperfect, some believe that it could be better for the child than an indefinite placement in the foster care system with no real chance of being adopted.

Minimizing Foster Care Placements

A prolonged stay in foster care can be damaging to a child emotionally. Children placed in foster care often have been the victims of neglect or abuse, and having a stable placement in the care of responsible adults is especially important as they begin to recover from those

¹ The Kids Count Data Book was released on July 25, 2007, although the foster care data contained in the report are from 2004.



experiences. Upon initial placement in foster care, children may not understand why they have been separated from their parents and may blame themselves, or feel abandoned, according to the Foster Care Review Board and other experts. The longer a child is in foster care, the more likely it is that he or she may be moved from one foster care provider to another, creating a greater sense of dislocation and disrupting any bonds that may have formed between the child and the foster care provider.

The Foster Care Review Board, in its 2006 annual report, recommended that child placing agencies make an effort to minimize such disruptions by keeping a child in one placement rather than transferring the child to multiple foster parents.

Relative Care

Placing a child with a relative can be an attractive alternative to foster care. Generally, children may feel more comfortable in the home of a relative whom they know, and being in a relative's home can establish a greater sense of stability and permanency, even if the placement is only temporary while steps are being taken toward reunification with the parent. Placement with a relative also is less expensive than placement with a licensed foster care provider. Because of these benefits, the State has made greater efforts in recent years to place children with family members whenever appropriate. According to the DHS Children's Services Administration, the number of placements with relatives has been increasing steadily over the past 10 years, from 3,883 in 1997 to 6,628 in 2006.

The increased reliance on relative care has created some problems, however. Most relatives are not licensed foster care providers, meaning that they are not eligible to receive foster care payments to help cover the expenses of caring for the child. Having an additional child in the home can be a substantial financial burden, and is sometimes more than the caregiver can handle alone. Children who are not in the foster care system also may not be eligible for Medicaid funding, which is particularly problematic for children with special medical or mental health problems. To help address these problems, Senate Bill 170 would provide for assistance to relatives caring for children who otherwise would end up in the foster care system. The bill, introduced by Senator Clark-Coleman, was referred to the Families and Human Services Committee on February 6, 2007.

The Office of Children's Ombudsman (OCO), in its 2005 annual report (the most recent report available), also recommended consulting with relatives when placement options for foster children are determined. Although Michigan law requires the DHS to identify, locate, and consult with relatives to determine whether placement with a relative would be a suitable alternative to foster care, the OCO found that in practice the DHS did not always consider placement with a noncustodial parent or other relatives, particularly relatives of a putative father.

In response, the DHS pointed to the significant increase in placements with family members, and indicated a commitment to placing children within their family network when such a placement can be done safely. In fact, the DHS has a policy that requires foster care workers to identify and locate all relatives for possible placement of a child.



Private Agencies

Some have recommended that more of the responsibility for providing foster care services be shifted from the DHS to accredited nonprofit foster care agencies. According to the DHS Children's Services Administration, there are 87 nonprofit foster care agencies in Michigan, which currently provide about 39.0% of foster care services. It has been suggested that allowing those agencies to handle a greater proportion of the foster care caseload could result in cost savings for the State. While it is still uncertain whether those potential savings could be realized, supporters of the plan have pointed to other benefits that private placement agencies offer. They have said that as caseloads for DHS foster care workers are rising, private agency caseworkers can provide more personal contact with the foster child and the foster care provider, and are better able to identify the needs and issues of concern to the family. According to an article in the *Jackson City Patriot*, some foster parents have expressed a decided preference to working with the private agencies, and are much happier with the level of service provided.² Arguably, if that success could be expanded to cover all foster care providers in the State, then the system could benefit substantially, with a higher proportion of satisfactory placements, resulting in greater stability for the foster child.

The FY 2007-08 DHS budget proposal, Senate Bill 222, as passed by the Senate, includes a provision that, beginning October 1, 2007, would require foster care services for children who did not have a placement available with a licensed foster care provider to be provided under contract with licensed, nonprofit, nationally accredited child placing agencies and other service providers currently under contract.

Concerns about that proposal have been raised. Critics have said that allowing private agencies to handle a greater proportion of foster care services would reduce governmental oversight, at a time when many believe that greater oversight is needed. In its 2005 audit of the foster care program, the Office of the Auditor General found that the DHS was not effective in monitoring the services provided by private agencies under contract. For instance, although DHS policy requires a quality assurance review (QAR) of each contractor every 18 to 24 months, the audit found that the Purchased Services Division of the DHS either had not performed or could not produce documents to show that it had performed a QAR on over half of the contracted agencies reviewed for the audit. Of the others, the DHS had failed to conduct the QAR within 24 months, as required, for 35.0% of the contracted agencies.

In a March 2007 audit of the DHS's training and staff development procedures, the Auditor General found similar problems. Although the DHS policies required contracted agencies to ensure that their staff members receive certain training within six months of being hired, as well as periodic follow-up training, the audit found that 30.0% of the contracted agency staff providing foster care services had not been trained as required within the designated time frame. In response, the DHS cited frequent turnover at the private agencies.

² "Bill would Privatize Foster Care", 7-15-07.



Reports such as these have led some to question whether there is sufficient accountability for private agencies, and whether it would be prudent to place a greater proportion of the foster care workload with them.

Options for Older Children

According to the Foster Care Manual, adoption is the preferred goal for permanency in cases in which parental rights have been terminated. As children grow older, however, their chances of being adopted are significantly reduced. In 2005, only 14.0% of the children who were adopted out of foster care were 13 or older, according to a 2006 report by a DHS task force.³ About 450 children reached the age of 18 while still in foster care. The transition to adulthood can be very difficult for these youths, who have not had the stability of a permanent home through childhood and who lose their eligibility for foster care services once they turn 18. As a reflection of the challenges that these individuals face, children who age out of the foster care system are less likely to graduate from high school, are more likely to be arrested, have a higher incidence of drug and alcohol abuse, and are more likely to be unemployed or employed at low wages, according to the DHS task force.

Some have suggested that the State should provide children who age out of the foster care system with additional guidance with basic life skills, such as finding employment, establishing a budget, and continuing their education, and other information that they will need to become productive, self-sufficient adults. Absent any support, these youths may experience a sense of abandonment or simply not know how to proceed. The DHS task force put forth several initiatives to help foster youths in transition, including an internship program to provide them with practical job experience and contact with a mentor, a program to help youths apply for continuing Medicaid coverage once they age out of foster care, programs to expand dental coverage and mental health services for youths aging out, and proposed workshops to make them aware of affordable housing options.

The DHS also has created a Foster Youth in Transition website⁴ to provide information relating to education, employment, finances, housing, transportation, legal services, health, pregnancy and parenting, services for youths with disabilities, and other topics.

Conclusion

While the foster care program in Michigan faces many challenges, a great deal of effort is being made to identify deficiencies in the system and improve outcomes for children in State care. It is generally recognized that the State is not meeting its stated objective of moving children as quickly as possible toward permanency. Although the system works well for some children, others enter the foster care system and remain there until adulthood without ever having a permanent placement. The Family to Family program, permanent guardianship, and other efforts to keep children in familiar environments may help to give those children some stability, but further effort is needed to ensure that they have access to

³ "Interdepartmental Task Force Service to At-Risk Youth Transitioning to Adulthood", September 2006.

⁴ <http://www.michigan.gov/fyit>

State Notes

TOPICS OF LEGISLATIVE INTEREST

July/August 2007



necessary medical care and other services. For those children who remain in foster care until they reach the age of 18, efforts have been made to identify resources that will help them make the transition to adulthood once they leave the foster care system. Other potential reforms include allowing private nonprofit agencies to take over a greater share of the foster care workload, which supporters say could save money and provide better outcomes for children. The proposal has been controversial, and some have suggested that it actually could cost the State money. Others believe that increased reliance on private agencies could reduce oversight of the foster care program, potentially putting children at risk. As these and other reforms are debated, all sides agree that a stable, permanent living arrangement is in the best interest of each child, and that the foster care system must be improved to progress toward that goal.